IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

WEALTH TAX REFERENCE No 17 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF WEALTH TAX

Versus

CHINUBHAI HARIDAS HUF

Appearance:

1. WEALTH TAX REFERENCE No. 17 of 1987
MR BB NAIK with MR MANISH R BHATT for Petitioner No. 1
NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 25/09/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE D.A.MEHTA)

The Income-tax Appellate Tribunal, Ahmedabad

Bench "C" has referred the following question for the opinion of this Court :-

"Whether, in law and on facts the reversionary value of land was to be included while working out the valuation of the property specially when the property was rented out ?"

2. The assessment years are 1975-76 to 1978-79. The assessee HUF was the owner of an immoveable property known as "H.A. Market", Kalupur, Ahmedabad. The said property is occupied since long by tenants and there has been no increase in the rent payable by the said tenants. The assessee had accordingly returned the value of the aforesaid property for the wealth-tax purposes at Rs.3,22,000/- for all the four years. However, the Wealth-tax Officer adopted the values at Rs.4,84,000/-, Rs.5,00,400/-, Rs.5,18,500/- and Rs.5,38,200/respectively for the four years. The enhanced value was arrived at by including the reversionary value of the land on which the property is situate.

3. Being aggrieved, the assessee went in appeal before the Assistant Appellate Commissioner who accepted the contention of the assessee that the reversionary value could not be included for the purposes of valuation, by relying upon the Calcutta High Court decision in the case of Ashima Sinha, 116 ITR 26. The Tribunal confirmed the view taken by the Assistant Appellate Commissioner as no other distinguishing features were placed before the Tribunal.

4. Mr BB Naik, learned counsel for the revenue very fairly stated that the view taken in the decision of the Calcutta High Court has also been taken by various other High Courts in the following cases :-

(i) 168 ITR 485 (Allahabad)
(ii) 195 ITR 397 (Delhi)
(iii) 215 ITR 356 (Bombay) and
(iv) 226 ITR 850 (Punjab & Haryana)

It was also pointed out that there is no decision which has taken a contrary view.

5. Having perused the aforesaid decisions, we are in respectful agreement with the view expressed therein and we find no reason to differ from the same. The question referred to us is, therefore, answered in the negative i.e. in favour of the assessee and against the revenue.

6. The reference stands disposed of accordingly with no order as to costs.

(M.S. Shah, J.)

(D.A. Mehta, J.)

sundar/-